

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED OCT 15 2012

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-v-

FABRICE TOURRE.

Defendant.

10 Civ. 3229 (KBF)

ORDER

KATHERINE B. FORREST, District Judge:

Based upon arguments raised by the parties at the October 11, 2012, oral argument on the SEC's motion for partial relief from the Court's June 10, 2011, Order, it is hereby

ORDERED that no later than October 26, 2012, the parties should submit memoranda of no longer than 15 pages addressing the following two questions:

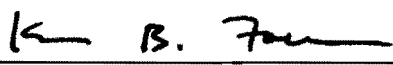
1. If the SEC's reach in enforcing Exchange Act violations is "broad" with regards to the "in connection with" requirement, see, e.g., S.E.C. v. Zandford, 535 U.S. 813, 820-21 (2002), and there has always been U.S.-based conduct with regards to the IKB transaction (i.e., the closing/transfer of title to GS&Co. in New York), did the Court ever need to reach the Morrison issue on the motion to dismiss? As the Court put it at oral argument, if the SEC could have enjoined the transaction

based upon the GS&Co. closing, why is there any question about the SEC's enforcement powers as to the IKB transaction now?

2. Based upon (a) the United States' brief as amicus curiae in Morrison v. National Bank of Australia Bank Ltd., 130 S. Ct. 2869 (2010), in which the SEC makes a clear distinction between private-plaintiff and enforcement actions, and (b) footnote 12 of Justice Stevens' concurrence in Morrison, 130 S. Ct. at 2895 n.12, did the Court ever need to reach the Morrison issue on the motion to dismiss? Cf. S.E.C. v. Illarramendi, No. 3:11cv78, 2011 WL 2457734, at *3-4 (D. Conn. June 16, 2011).

SO ORDERED:

Dated: New York, New York
October 15, 2012



KATHERINE B. FORREST
United States District Judge